In the Supreme Court of the United States

OCTOBER TERM, 1974

No. 73-2010

MARGARET RUTH PETRAGLIA, ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

MEMORANDUM FOR THE UNITED STATES

After a court trial on stipulated facts, petitioners were convicted of conducting an illegal gambling business involving five or more persons and of conspiring to commit that offense, in violation of 18 U.S.C. 1955 and 371.[1] Petitioner Petraglia was sentenced to concurrent three-year prison terms and fined $10,000 and $5,000, respectively on the two counts. Petitioner Nellie Mary Puleo was sentenced to concurrent terms of three years' imprisonment, with all but four months suspended, and was placed on three years' probation; in addition, she was fined $5,000 on each count. Petitioner Frank Anthony Puleo was given concurrent suspended three-year prison

[1]Petitioners' trial was severed from that of certain other co-defendants, whose petition is currently also before the Court in *Grosso, et al.* v. *United States,* No. 73-1412. The *Grosso* defendants were tried and adjudged guilty prior to petitioners' trial, and much of the evidence from that case was introduced in petitioners' trial by stipulation.

sentences and was placed on three years' probation; he was also fined $5,000 and $2,000 respectively on the two counts. The court of appeals affirmed (Pet. App. 5-6).

As discussed in the district court's opinion (Pet. App. 7-9), the evidence showed that petitioners and others were engaged in operating an illegal gambling enterprise whose gross revenues amounted to more than $30,000,000 per year. Petitioners' only contention is that, under "Wharton's Rule," it was improper to charge and punish them for both the substantive violation of Section 1955 and the conspiracy to commit that offense. As petitioners point out, the issue is presented in a similar factual situation in *Iannelli* v. *United States,* No. 73-64, certiorari granted May 28, 1974. Accordingly, it would be appropriate, as petitioners suggest, to defer disposition of this petition until after the decision in *Iannelli*, and then dispose of it in accordance with that decision.

Respectfully submitted.

ROBERT H. BORK,
Solicitor General.

SEPTEMBER 1974.